

seeks to prepay the mortgage or change the terms of the mortgage or regulatory agreement, and briefly describe any contacts that the owner has made or is making with other governmental agencies or other interested parties in connection with the notice of intent.

(b) An owner simultaneously shall file the notice of intent with:

(1) The chief executive officer of the appropriate State or local government in which the project is located, or any officer designated by executive order or State or local law to receive such information;

(2) Each tenant in the project; and

(3) The mortgagee.

In addition, the owner shall post a copy of the notice of intent in each occupied building in the project.

(c) Upon receipt of a notice of intent, the Commissioner will provide the owner with information that the owner needs to prepare a plan of action. This information shall include information regarding the Commissioner's standards under § 248.221 of this part regarding the approval of a plan of action involving termination of low income affordability restrictions, and any relevant market area and demographic information that the Secretary has custody of and that the owner may use in preparing the plan of action; in addition, it shall include at a minimum a list of the Federal incentives authorized under § 248.231 of this part for those projects for which a plan of action involving termination of low income affordability restrictions would not be approvable.

(d) Filing a notice of intent with the Commissioner will lead to one of the following results:

(1) Where the project meets the requirements of § 248.221 of this part—

(i) The Commissioner will approve the prepayment or the termination of mortgage insurance pursuant to § 248.221 of this part, and all low income affordability restrictions will be terminated with respect to some or all of the units; however, the owner would be responsible for ensuring that displaced current tenants are relocated to affordable housing, if necessary.

(ii) The Commissioner will approve the prepayment or termination of

mortgage insurance pursuant to § 248.221 of this part, and all low income affordability restrictions will be terminated, except (where necessary because the project is located in a housing market where there is insufficient comparable, decent, safe and sanitary affordable housing to meet the needs of all current tenants) with regard to protection of current very low income, low income and moderate income tenants;

(2) Where the plan of action would not be approvable under § 248.221 of this part—

(i) The Commissioner will approve prepayment or the termination of mortgage insurance, but the owner will receive assistance under a State, local or other Federal government housing program, and will receive incentives pursuant to § 248.231 of this part from the Federal government in return for agreeing to conditions related to the continued use of the project as low income housing in accordance with § 248.233 of this part.

(ii) The Commissioner will not approve prepayment or the termination of mortgage insurance, but will provide incentives to the owner pursuant to § 248.231 of this part in accordance with a plan of action meeting the standards of § 248.233 of this part;

(iii) The Commissioner will not approve prepayment or the termination of mortgage insurance, but, after failing to reach agreement on a negotiated plan of action, the owner and the Commissioner will agree to a package of incentives and restrictions prescribed by § 248.241 of this part; or

(iv) The Commissioner will not approve prepayment or the termination of mortgage insurance, and will not offer incentives of any kind.

(Approved by the Office of Management and Budget under control number 2502-0378)

[55 FR 38952, Sept. 21, 1990. Redesignated at 57 FR 12041, Apr. 8, 1992, and amended at 58 FR 37816, July 13, 1993]

§ 248.213 Plan of action.

(a) *Preparation and submission.* The owner shall submit the plan of action to the Commissioner in such form and manner as the Commissioner shall prescribe. The owner may submit the plan

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of action simultaneously to any appropriate State or local government agency, which shall, in reviewing the plan, consult with representatives of the tenants of the housing. An owner shall submit the plan of action to the Commissioner in such form and manner as the Commissioner shall prescribe. The owner shall notify the tenants of the plan of action by posting in each occupied building a summary of the plan of action and by delivery of a copy of the plan of action to the tenant representative, if any. In addition, the summary must indicate that a copy of the plan of action shall be available from the tenant representatives, whose names, addresses and telephone numbers are indicated on the summary, the local HUD field office, and the on-site office for the project, or if one is not available, in the location where rents are collected, for inspection and copying, at a reasonable cost, during normal business hours. Simultaneously with the submission to the Commissioner, the owner shall submit the plan of action to that officer of State or local government to whom the owner submitted a notice of intent under § 248.211(b). The summary of the plan of action posted by the owner and the copies of the plan of action submitted to the tenant representative and the officer of State or local government shall all state that, upon request, the tenants and the State or local government, may obtain from the owner or from the local HUD field office a copy of all documentation supporting the plan of action except for that documentation deemed “proprietary information” under § 248.101.

(b) *Contents.* The plan of action shall include:

(1) A description of any proposed changes in the status or terms of the mortgage or regulatory agreement, which may include a request for incentives to extend the low income use of the housing, as authorized under § 248.231 of this part; or may include a request to terminate the insurance contract.

(2) A description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and the agencies;

(3) A description of any proposed changes in the low income affordability restrictions;

(4) A description of any proposed changes in ownership related to the plan of action, prepayment or termination of mortgage insurance;

(5) An assessment of the effect of the proposed changes on existing tenants.

(6) In the case of a plan of action involving incentives, an appraisal using the residential income approach;

(7) In the case of a plan of action involving the termination of low income affordability restrictions, a statement of the effect, if any, of the proposed changes on the supply of housing affordable to low and very low income families in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

(8) A market study which demonstrates that the project is located in a market area that would enable the Commissioner to make the findings set forth at § 248.221(b)(1); and

(9) A list of any waivers requested by the owner pursuant to § 248.7 of this part; and

(10) Any other information which the owner may choose to submit which would enable the owner to meet the criteria for approval of the proposed plan of action.

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§ 248.215 Notification of deficiencies.

Not later than 60 days after receipt of a plan of action, the Commissioner will notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, the notice shall describe ways, if any, in which the plan of action could be revised to meet the criteria for approval.

§ 248.217 Revisions to plan of action.

The owner may from time to time revise the plan of action before its approval as may be necessary to obtain the commissioner's approval thereof. An owner shall submit any revision to the Commissioner, and provide a copy